

**8.100.3.G. General and Citizenship Eligibility Requirements**

1. To be eligible to receive Medical Assistance, an eligible person shall:
  - a. Be a resident of Colorado;
  - b. Not be an inmate of a public institution, except as a patient in a public medical institution or as a resident of an Long Term Care Institution or as a resident of a publicly operated community residence which serves no more than 16 residents;
  - c. Not be a patient in an institution for tuberculosis or mental disease, unless the person is under 21 years of age or has attained 65 years of age and is eligible for the Medical Assistance Program and is receiving active treatment as an inpatient in a psychiatric facility eligible for Medical Assistance reimbursement. See section 8.100.4.H for special provisions extending Medical Assistance coverage for certain patients who attain age 21 while receiving such inpatient psychiatric services;
  - d. Meet all financial eligibility requirements of the Medical Assistance Program for which application is being made;
  - e. Meet the definition of disability or blindness, when applicable. Those definitions appear in this volume at 8.100.1 under Definitions;
  - f. Meet all other requirements of the Medical Assistance Program for which application is being made; and
  - g. Fall into one of the following categories:
    - i) Be a citizen or national of the United States, the District of Columbia, Puerto Rico, Guam, the Virgin Islands, the Northern Mariana Islands, American Samoa or Swain's Island; or
    - ii) Be a lawfully admitted non-citizen who entered the United States prior to August 22, 1996, or
    - iii) Be a non-citizen who entered the United States on or after August 22, 1996 and is applying for Medical Assistance benefits to begin no earlier than five years after the non-citizen's date of entry into the United States who falls into one of the following categories:
      - 1) lawfully admitted for permanent residence under the Immigration and Nationality Act (hereafter referred to as the "INA");
      - 2) paroled into the United States for at least one year under section 212(d)(5) of the INA; or
      - 3) granted conditional entry under section 203(a)(7) of the INA, as in effect prior to April 1, 1980; or
      - 4) determined by the eligibility site, in accordance with guidelines issued by the U.S. Attorney General, to be a spouse, child, parent of a child, or child of a parent who, in circumstances

specifically described in 8 U.S.C. sec. 1641, has been battered or subjected to extreme cruelty which necessitates the provision of Medical Assistance (Medicaid); or

5) lawfully admitted for permanent residence under the INA with 40 qualifying quarters as defined under Title II of the Social Security Act. The 40 quarters is counted based on a combination of the quarters worked by the individual, the individual's spouse as long as they remain married or spouse is deceased, and/or the individual's parent while the individual is under age 18; or

6) The statutes and acts listed at 8.100.3.G.1.g.iv.1 through 8.100.3.G.1.g.iv.5 are incorporated herein by reference. No amendments or later editions are incorporated. These regulations ~~Copies~~ are available for public inspection ~~at the from the following person at the following address: Custodian of Records, Colorado~~ Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Pursuant to C.R.S. 24-4-103(12.5)(V)(b), the agency shall provide certified copies of the Any material that has been incorporated at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the material incorporated by reference from the agency of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline or rule. by reference in this rule may be examined at any state publications depository library.

7) Be a non-citizen who arrived in the United States on any date, who falls into one of the following categories:

a) lawfully residing in Colorado and is an honorably discharged military veteran (also includes spouse, unremarried surviving spouse and unmarried, dependent children); or

b) lawfully residing in Colorado and is on active duty (excluding training) in the U.S. Armed Forces (also includes spouse, unremarried surviving spouse and unmarried, dependent children); or

c) granted asylum under section 208 of the INA for seven years after the date of entry into the United States; or

d) refugee under section 207 of the INA for seven years after the date of entry into the United States; or

e) deportation withheld under section 243(h) (as in effect prior to September 30, 1996) or section 241(b)(3) (as amended by P.L. 104-208) of the INA for seven years after the date of entry into the United States; or

f) Cuban or Haitian entrant, as defined in section 501(e)(2) of the Refugee Education Assistance Act of 1980 for

seven years after the date of entry into the United States; or

g) an individual who (1) was born in Canada and possesses at least 50 percent American Indian blood, or is a member of an Indian tribe as defined in 25 U.S.C. sec. 450b(e); or

h) admitted to the U.S. as an Amerasian immigrant pursuant to section 584 of the Foreign Operations, Export Financing, and Related Programs Appropriations Act of 1988 (as amended by P.L. 100-461) for seven years after the date of entry into the United States; or

i) lawfully admitted permanent resident who is a Hmong or Highland Lao veteran of the Vietnam conflict; or

j) a victim of a severe form of trafficking in persons, as defined in section 103 of the Trafficking Victims Act of 2000, 22 U.S.C. 7102; or

k) An alien who arrived in the United States on or after December 26, 2007 who is an Iraqi special immigrant under section 101(a)(27) of the INA for seven years after the date of entry into the United States; or

l) An alien who arrived in the United States on or after December 26, 2007 who is an Afghan Special Immigrant under section 101(a)(27) of the INA for seven years after the date of entry into the United States.

m) The statutes and acts listed at 8.100.3.G.1.g.iii.7.c through 8.100.3.G.1.g.iii.7.l are incorporated herein by reference. No amendments or later editions are incorporated. These regulations are available for public Copies are available for inspection at the -from the following person at the following address: Custodian of Records, Colorado Department of Health Care Policy and Financing, 1570 Grant Street, Denver, Colorado 80203-1714. Pursuant to C.R.S. 24-4-103(12.5)(V)(b), the agency shall provide certified copies of the material incorporated at cost upon request or shall provide the requestor with information on how to obtain a certified copy of the -Any material that has been incorporated by reference from the agency of the United States, this state, another state, or the organization or association originally issuing the code, standard, guideline or rule. in this rule may be examined at any state publications depository library.

iv) Be a lawfully admitted non-citizen who is a pregnant women or a child under the age of 19 years in the United States who falls into one of the categories listed in 8.100.3.G.g.iii.1-6 or into one of the following categories:

- 1) granted temporary resident status in accordance with 8 U.S.C. 1160 or 1255a; or
- 2) granted Temporary Protected Status (TPS) in accordance with 8 U.S.C. 1254a and pending applicants for TPS granted employment authorization;
- 3) granted employment authorization under 8 CFR 274a.12(c); or
- 4) Family Unity in accordance with section 301 of Public law 101-649, as amended.
- 5) Deferred Enforced Departure (DED)
- 6) granted Deferred Action status (excluding Deferred Action for Childhood Arrivals (DACA))
- 7) granted an administrative stay of removal under 8 CFR 241; or
- 8) Beneficiary of approved visa petition who has a pending application for adjustment of status.
- 9) Pending an application for asylum under 8 U.S.C. 1158, or for withholding of removal under 8 U.S.C. 1231, or under the Convention Against Torture who-
  - a) Has been granted employment authorization; or
  - b) Is under the age of 14 and has had an application pending for at least 180 days.
- 10) granted withholding of removal under the Convention Against Torture;
- 11) Pending an application or Recipient of Special Immigrant Juvenile status under 8 U.S.C. 1101(a)(27)(J); or
- 12) Citizens of Micronesia, the Marshall Islands, and Palau; or
- 13) lawfully admitted American Samoa under the laws of American Samoa.
- 14) A non-citizen in a valid nonimmigrant status, as defined in 8 U.S.C. 1101(a)(15) or under 8 U.S.C. 1101(a)(17); or
- 15) paroled into the United States for less than one year under section 212(d)(5) of the INA, except for an individual paroled for prosecution, for deferred inspection or pending removal proceedings.

iv) Exception: The exception to these requirements is that persons who apply for and meet the criteria for one of the categorical Medical

1 Assistance programs, but do not meet the criteria of citizenship shall  
2 receive Medical Assistance benefits for emergency medical care only.  
3 The rules on confidentiality prevent the Department or eligibility site from  
4 reporting to the United States Citizenship and Immigration Services  
5 persons who have applied for or are receiving assistance. These  
6 persons need not select a primary care physician as they are eligible  
7 only for emergency medical services.

8 For non-qualified aliens receiving Medical Assistance emergency only  
9 benefits, the following medical conditions will be covered:

10 An emergency medical condition (including labor and delivery) which  
11 manifests itself by acute symptoms of sufficient severity (including  
12 severe pain) such that the absence of immediate medical attention could  
13 reasonably be expected to result in:

- 14 1) placing the patient's health in serious jeopardy;
- 15 2) serious impairment of bodily function; or
- 16 3) serious dysfunction of any bodily organ or part.

17 A physician shall make a written statement certifying the  
18 presence of an emergency medical condition when services are  
19 provided and shall indicate that services were for a medical  
20 emergency on the claim form. Coverage is limited to care and  
21 services that are necessary to treat immediate emergency  
22 medical conditions. Coverage does not include prenatal care or  
23 follow-up care.  
24

**8.100.3.K. Consideration of Income**

1. Income or resources of an alien sponsor or an alien sponsor's spouse shall be countable to the sponsored alien effective December 19, 1997. Forms used prior to December 19, 1997, including but not limited to forms I-134 or I-136 are legally unenforceable affidavits of support. The attribution of the income and resources of the sponsor and the sponsor's spouse to the alien will continue until the alien becomes a U.S. citizen or has worked or can be credited with 40 qualifying quarters of work, provided that an alien crediting the quarters to the applicant/client has not received any public benefit during any creditable quarter for any period after December 31, 1996.

a. Exception: When the sponsored alien is a pregnant women or a child the income or resources of an alien sponsor or an alien sponsor's spouse will not be countable to the sponsored alien.

2. Income, in general, is the receipt by an individual of a gain or benefit in cash or in kind during a calendar month. Income means any cash, payments, wages, in-kind receipt, inheritance, gift, prize, rents, dividends, interest, etc., that are received by an individual or family.

**8.100.4.G. MAGI Covered Groups**

5. Pregnant Women whose household income does not exceed 185% of the federal poverty level (MAGI-equivalent) are eligible for the Pregnant Women MAGI Medical Assistance program. Medical Assistance shall be provided to a pregnant woman for a period beginning with the date of application for Medical Assistance through the last day of the month following 60 days from the date the pregnancy ends. Once eligibility has been approved, Medical Assistance coverage will be provided regardless of changes in the woman's financial circumstances.
6. A lawfully admitted non-citizen who is pregnant legal immigrant and who has been in the United States a legal immigrant for less than five years is eligible for Medical Assistance if she meets all other the eligibility requirements and falls into one of the categories listed in 8.100.3.G.g.iii.1-6 and iv. for expectant mothers listed in 8.100.4.G.5. This population is referenced as Legal Immigrant Prenatal.